

## LABOUR DEPARTMENT

The 23rd August, 1982

No. 9(1)-82-6Lab/7224.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. Thomson Press India Ltd., Mathura Road, Faridabad.

BEFORE: SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 113 of 1981

between

SHRI FATEH SINGH, WORKMAN AND THE MANAGEMENT OF M/S. THOMSON  
PRESS (INDIA) LTD., MATHURA ROAD, FARIDABAD

Present.—

Shri K. P. Aggarwal, for the management.

Nemo, for the workman.

## AWARD

The State Government of Haryana referred the following dispute between the workman, Shri Fateh Singh and the management of M/s. Thomson Press (India) Ltd., Mathura Road, Faridabad, by order No. ID/FD/67/81/21088, dated 21st April, 1981, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Fateh Singh was justified and in order? If not, to what relief is he entitled?

Notices were sent to the parties who appeared and filed the pleadings. The following issues were framed by my order dated 22nd July, 1981.

1. Whether the workman abandoned his job of his own? If so, to what effect?
2. Whether the termination of services of Shri Fateh Singh was justified and in order? If not, to what relief is he entitled?

And the case was fixed for the evidence of the management who examined Shri V. K. Kawatra, Personnel Officer as MW-1 and Shri P. C. Nagpal, Manager Despatch and Transport as MW-2. The case was fixed for the evidence of the workman. The workman was afforded three opportunities who failed to produce any evidence. On the last date fixed for evidence, the management appeared but none was present on behalf of the workman. Therefore his evidence was closed and the case was again adjourned for *ex parte* argument. The workman did not appear even on that date. Therefore *ex parte* arguments were heard.

Issue No. 1.

MW-1 deposed that the workman used to work as Jeep Driver in Delhi Office with Mrs. Indra Igam. His letter of appointment was Ex. M-1. Period of probation was extended,—vide Ex. M-3 which bear the signature of the workman. Mrs. Indra Igam left the job of the company, therefore, there remained no post of driver. Workman requested vide Ex. M-4 that he may be taken on job at Faridabad factory. He was taken in the Transport Department of the factory on 25th January, 1980,—vide Ex. M-5. There were fiat, Ambassador and Tempo Vehicles in the carpool of the factory. Shri Nagpal was Transport Incharge. The workman was told that he has to drive all the three types of vehicles. He further deposed that the workman had some hesitation in driving tempo. When two drivers of the company had gone on leave the workman was asked to go duty on tempo but he absented himself from 23rd February, 1980 to 13th March, 1980. His name was struck off on 14th March, 1980. Copies of the register were Ex. M-6 and M-7. Copy of the standing order of the company was Ex. M-8. During the absence of the workman, the management had written him two letters Ex. M-9 and M-10. Copies of postal receipts were Ex. M-11 and M-12. The workman neither replied of their letters nor attended his duty. In cross examination, he admitted that the workman had submitted E. S. I. certificate for 25th

January, 1980 to 1st March, 1980. He denied the suggestion that the workman had submitted his medical fitness certificate on 4th March, 1980. He also denied that then the workman again came on 5th March, 1980 he was not allowed on duty. The management had submitted its comments before the Conciliation on 17th March, 1980. The workman was offered compensation but he did not accept. MW-2 Shri P. C. Nagpal deposed that he knew the concerned workman. He had reported for duty on 25th January, 1980. He was told about drivers duty of car and tempo. The workman was reluctant to drive tempo on that time. There were 12 drivers in the company. Shri Hans Ram Driver went on leave from 7th February, 1980 to 21st February, 1980 and Shri Prem Chand was not present on 12th February, 13th February, and 14th February, 1980. On 22nd February, 1980, the workman was asked to do duty on tempo because Shri Hans Ram who had come after sickness was to be given car duty. The concerned workman absented from 23rd February, 1980. He reported the matter to the personnel department,—vide Ex. M-13. The workman did not report for duty again to him. In cross examination, he stated that the concerned workman remained with him from less than one month.

The learned representative for the management argued that absence of the workman showed that he was not ready to drive tempo and did not want to remain in the employment of the management because he was to ply tempo vehicle. The representative for the management further contended that the present reference was an individual reference in which the workman had remained absent even to verify on oath his contention. No opportunity could be given to the party who does not appear to assert his claim. It is correct that the workman did not lead any evidence despite opportunity taken by him rather he stopped appearing in the case. I find force in the argument of the learned representative of the management that the workman must substantiate his claim by appearing in the witness box or by leading some evidence.

In this circumstance, I find that the case of the workman fails on this ground. Therefore I pass my award that the workman was not entitled to any relief.

Dated 3rd July, 1981.

M. C. BHARDWAJ,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endst. No. 767, dated 10th July, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the I. D. Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9 (1)82-6Lab./7279.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Municipal Committee Jhajjar, District Rohtak.

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 266 of 78

between

SHRI ASHOK KUMAR, WORKMAN AND THE MANAGEMENT OF M/S.  
MUNICIPAL COMMITTEE, JHAJJAR, DISTRICT ROHTAK

Present.—

Shri Sagar Ram Gupta, for the workman.

Shri H. R. Vats, for the management.

## AWARD

This reference has been referred to this Court, by the Hon'ble Governor,—*vide* his order No. ID/SPT/87-78/41886, dated 15th September, 1978, under section 10 (i)(c) of the Industrial Disputes Act, for adjudication, of the dispute existing between Shri Ashok Kumar, workman and the management of Municipal Committee, Jhajjar. The term of the reference was :—

“Whether the termination of services of Shri Ashok Kumar, was justified and in order ?  
If not, to what relief is he entitled ?

On receipt of the order of reference, notices as usual were sent to the parties. The parties appeared filed their respective pleadings. It was observed by my learned predecessor on 5th May, 1979 that there were discrepancies in the pleadings of the workman in his demand notice and the statement of claim. The workman was asked to file a corrected claim statement on 15th June, 1979. On this date of hearing the workman stated that in his notice of demand he has mentioned that he was suspended on 24th April, 1978 and dismissed with effect from 26th May, 1978 whereas in his claim statement he only stated that he was suspended on 18th April, 1978. The Municipal Committee, while filing the written statement submitted that the workman was served with charge-sheet and did not directly reply whether workman was suspended on 18th April, 1978 and subsequently terminated. The management, it was observed had withheld relevant facts. The respondent was directed on 4th July, 1979 to file a fresh written statement regarding suspension of the workman and his termination without concealing any facts. The management filed fresh written statement. On the basis of the pleadings of the parties the following issues were framed :—

1. Whether the reference is bad and not maintainable because of any contradictory inconsistent pleas taken by the workman in demand notice and claim statement?
2. As per reference?

The management examined Shri Jagdish Lal, Secretary, respondent Shri Shish Ram Malik, Sanitary Inspector, Shri Madan Singh, Jamadar and Shri Bhagwan Dass, Jamadar as their witnesses and closed their case. The workman examined himself and Shri Azad Singh, son of Shiv Lal as his witnesses and closed his case. I heard the learned representatives of the parties and decide the issues as under :—

Issue No. 1.—

The management has taken objection that the workman has pleaded in his claim statement that he was suspended on 18th April, 1978 and he has omitted to mention that he was subsequently terminated on 26th May, 1978 as has been mentioned in his demand notice and the management has further pleaded that the suspension order has been withdrawn and the workman has left with no cause of action as his prayer was the same in his statement of claim. As the workman is a illiterate person and he was not assisted by any trade union leader and he was not conversant with what is the demand notice and is the claim statement and the discrepancies cropping in his pleadings. More-over the reference is made on the demand notice filed by the workman where in he has pleaded that his services were terminated on 26th May, 1978 illegally and wrongly and this fact was in full knowledge of the management and there is no concealment or withholding of any fact on the part of the workman and the discrepancies are not of such a nature as to render the order of reference bad in law. I accordingly decide the issue against management.

Issue No. 2.—

The management witness MW-1 Shri Jagdish Lal has deposed that the workman was an *ad hoc* employee there were complaints about his work and conduct. The complaints were Ex. MW-1/1 to MW-1/3. The workman was charge-sheeted and show cause notice was issued he did not receive the show cause notice not sent any reply. He was placed under suspension on 20th April, 1978. He refused to receive the charge-sheet on 8th April, 1978, 5th May, 1978, notice of 11th May, 1978. The notice was sent through the jamadar. He was relieved from service on 26th May, 1978. Notices were exhibited as MW-1/4 to MW-1/6. He admitted in his cross examination that the workman was working prior to September, 1977 but there was no record with him as to on which date the workman was appointed but it was correct that he worked for two years before his services were terminated. He denied the suggestion as incorrect that Ex. MW-1/1 to MW-1/6 were false and forged and it was also incorrect that no notice or charge-sheet was issued to the workman but he admitted as correct that no notice etcetra were sent to the workman by post. He also admitted that he had no personal knowledge of the contents of the letters Ex. MW-1/1 to MW-1/6.

MW-2 has deposed that the workman never misbehaved with him but he happened to misbehave with the Jamadar. He further stated that the workman sometimes remained absent and his work was slow and his behaviour was rude. He gave out in his cross examination that no enquiry was held against the workman in which his statement might have been recorded. He did not try to serve any notice to the workman and voluntarily offered that this work related to the office. He further stated that he made a complaint in writing against the workman for his slow work and rude behaviour but he could not produce the copy of the same.

MW-3 Shri Madan Singh Jamadar deposed that on 13th February, 1978 he was on round and found the workman roaming about. On his asking he did not reply in a mannerly way. He was not aware or to if any notice was served on the workman. The workman remained absent only for a day or two but he did not attend to his work after suspension as no question of coming to his duty arose. He gave out in his cross examination that the workman worked for about one and a half year. On 13th February, 1978 he was alone on the round and workman was also alone and no other person was there and it was at about 8.00 A. M. When he met the workman. He made a complaint against the workman on the same day. He further gave out that he did not make any complaint in writing about the bad work of the workman and only did it verbally to the Secretary. He also admitted that no enquiry was held and his statement was also not recorded there in.

MW-4 has stated that he went three times to the applicant for delivering the notices along with the charge-sheet. The workman refused to receive the same time. No other person was there when he went to deliver the letters. He admitted that many people reside in the locality but he did not record the statement of any person as witness. He denied the suggestion as incorrect that only three dates were remembered by him because he was told before coming to give his statement before the court.

The workman appearing as MW-1 deposed that his work was of permanent nature and one Smt. Ram Kali was appointed in his place. He was not served with any charge-sheet nor any complaint was brought to his notice about his work. Ex. MW-1/1 was not in his knowledge and he denied that he ever said to Shri Madan Singh that dogs like him were falling after up him. He was never informed about report Ex. MW-1/3. He further stated that he was not served with any notice of termination nor he was given any retrenchment compensation. He denied that he was working on temporary basis as sweeper. He denied that he ever received any charge-sheet or the copy of the complaint nor any paper was sent to him through Shri Shish Ram and his question of refusing the papers did not arise as no one approached him to deliver any letter.

WW-2 has deposed that he was working with the respondent for the last 8 years and nothing of the sort came to his knowledge that the work of Ashok Kumar was bad and he used to misbehave with the Jamadar. He further stated that after the termination of the workman Ram Kali has been appointed to work in the same Mohalla in which Ashok Kumar used to work. In his cross examination he has stated that his duty hours were the same as those of Shri Ashok Kumar and it never happened in his presence that Ashok Kumar ever misbehaved with Madan Jamadar. He admitted in his cross examination that there was a union of which he was an active member and denied as wrong that being a member of the union he was deposing falsely in favour of the workman.

Ex. MW-1/1 is the report of Shri Madan Singh Jamadar which is dated 13th February, 1978 in which he has stated that at the time of the occurrence there were Naresh, Peon Octroi Post, Ram Baksh, Retired Jamadar and Bhagwan Dass, Jamadar present while in his cross examination the witness has stated that he was alone and the workman was also alone and he has further stated that there was no shop nor any house near the place of occurrence and he has further stated that he did not make any complaint in writing about the bad work of the workman and only told the Secretary verbally. From statement of Shri Madan Singh MW-3 it is proved that Ex. MW-1/1 was not made by him as the contents are not substantiated by his or altestamony and he has further stated that he had never made any complaint in writing. MW-2 has not spoken a word about Ex. MW1/3 and this document also which has been reported and signed by him has not been proved nor he has proved Ex. MW-1/2 as he has not spoken a word about this document also. The notices sent through Shri Bhagwan Dass Jamadar MW-4 are also not worthy of any credence as the documents from Ex. MW-1/1 to MW-1/3 are not proved and on the basis of which notices Ex. MW-1/4 to Ex. MW-1/6 were issued. It has also been proved that no charge-sheet was issued or enquiry was held and also no show cause notice was issued nor any notice pay or retrenchment compensation was paid. It has also been proved that the workman has been in service for about 2 years and his service have been terminated by the verbal order. The nature of work of the workman was of permanent nature and one Smt. Ram Kali has been appointed after his termination to do the same work. It is fully established that the management has flagrantly violated the principle of natural justice and has not followed the provisions of section 25(F). The order of termination is neither justified nor in order. The workman is entitled to reinstatement with continuity of service and with full back wages. No order as to costs. The reference is answered and returned accordingly.

Dated, the 10th July, 1982.

BANWARI LAL DALAL,

Presiding Officer,  
Labour Court, Haryana, Rohtak.

Endorsement No. 1703, dated 12th July, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

BANWARI LAL DALAL,

Presiding Officer,  
Labour Court, Haryana, Rohtak.